



**Cato R. Fiksdal**  
Agricultural Commissioner/  
Director of Weights and Measures

## **COUNTY OF LOS ANGELES**

### ***Department of Agricultural Commissioner/ Weights and Measures***

12300 Lower Azusa Road  
Arcadia, California 91006-5872  
<http://acwm.co.la.ca.us>

**Robert G. Atkins**  
Chief Deputy

December 2, 2003

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, CA 90012

Dear Supervisors:

#### **APPROVE AMENDMENT TO WEED ABATEMENT CONTRACT FOR TRACTOR HOURS FOR THE WEED HAZARD AND PEST MANAGEMENT BUREAU (ALL DISTRICTS) (3-VOTES)**

#### **IT IS RECOMMENDED THAT YOUR BOARD:**

1. Approve an amendment to contract 74014 with Cunningham Property Maintenance, Inc., increasing the amount from \$128,000 to \$192,000 (\$64,000 increase) effective upon Board approval through June 30, 2004.
2. Instruct the Chair to sign the Amendment.

#### **PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

The purpose of the above action is to enable the Agricultural Commissioner/Weights and Measures Department, Weed Abatement Division to continue providing essential work in fire prevention throughout the unincorporated areas of the County and contract cities.

The success of the weed abatement program depends on the timely abatement of hazardous fire conditions. An integral part of the annual program requires the use of hand crews, tractors and specialized power equipment which are furnished under contract by private vendors.

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#### Cunningham Property Maintenance Contract 74014

Climatic conditions and a heavy weed growth have necessitated our request for additional discing hours so that we can meet all our commitments towards fire prevention and nuisance abatement. We anticipate an increase in the hours of discing in the unincorporated area of Los Angeles County in the Antelope Valley area.

#### **Implementation of Strategic Plan Goals**

The Weed Abatement Program is a seamless service delivery system for the unimproved parcel owners in Los Angeles County. The program identifies and prioritizes services to be delivered in a seamless fashion to a designated category of property owners. Our County crews, private contract vendors, and parcel owners all participate in clearing vacant lots for fire protection.

#### **FISCAL IMPACT/FINANCING**

There is no net County cost.

The 2003-2004 department budget appropriation is adequate to cover the amendment. The cost of the amended contract is 100% recoverable through property tax liens and direct charges.

#### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

The terms of contract 74014 and the amended hours shall be for a period commencing from the date of Board approval through June 30, 2004. It may be extended upon mutual agreement for an additional one-year period.

The Department has determined that the Living Wage Program (County Code Chapter 2.201) does not apply to the recommended contracts.

The contracts have been reviewed by County Counsel and are approved as to form.

#### **CONTRACTING PROCESS**

Contract 74014 originally was awarded on June 4, 2002 and is effective through June 30, 2004.

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**IMPACT ON CURRENT SERVICES (OR PROJECTS)**

The recommended Board action will enable the Weed Abatement Division to abate the present hazardous conditions through the end of the 2003-2004 fiscal year.

**CONCLUSION**

When approved, this Department requires one (1) signed copy of the amended contract and minute order of the Board's action.

Respectfully submitted,

CATO R. FIKSDAL  
Agricultural Commissioner/  
Director of Weights and Measures

CRF:RS:cm  
AmendCPM

Attachment

c: Chief Administrative Officer  
County Counsel  
Auditor-Controller

## WEED ABATEMENT CONTRACT

**THIS AGREEMENT, made and entered into for the period from date of Board approval by and between the County of Los Angeles hereinafter referred to as "COUNTY" and Cunningham Property Maintenance, Inc., a contractor designated by the Department of Agricultural Commissioner/Weights and Measures, hereinafter referred to as "CONTRACTOR".**

### RECITALS:

**WHEREAS, the CONTRACTOR, as will appear by reference to the proceeding of the Board of Supervisors of the County of Los Angeles, has been awarded the contract for the work and services hereinafter mentioned:**

#### **1. COMPLIANCE WITH CONTRACT**

**PURSUANT TO, and in compliance with the Bid Proposal, the General Specifications, and the Information for Bidder, the undersigned bidder, having familiarized himself with the terms and conditions of the contract, the prices stated, and subject to the instructions and conditions of the General Specifications and other contract documents, agrees to perform, within the time required to be performed, and to provide and furnish any and all of the labor, materials, tools, expendable equipment, and all utility and transportation service necessary to perform the contract and complete in a workmanlike manner all of the work required.**

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4 **2. TERM OF AGREEMENT**

5 Subject to the termination provisions set forth in paragraph 11 and 12 herein, the term of the  
6 Agreement shall be for period commencing from the date of Board Approval, through June 30,  
7 2003. It may be extended two times upon mutual agreement. Each extension period shall be for  
8 12 months upon mutual agreement on terms acceptable to the COUNTY.

9 **3. CONTRACTOR OBLIGATIONS**

10 CONTRACTOR shall perform Weed Abatement services as directed by the COUNTY pursuant  
11 to paragraph E. of the General Specifications. The COUNTY guarantees no minimum service  
12 requirement during the term of this agreement.

13 **4. BILLING AND PAYMENT**

14 CONTRACTOR shall invoice COUNTY twice monthly in arrears for work performed in  
15 accordance with paragraph F. 5 of General Specifications. The CONTRACTOR'S services,  
16 and rate of service to be provided, are itemized in attached Appendix A.

17 **5. TERMINATION FOR IMPROPER CONSIDERATION**

18 COUNTY may, by written notice to CONTRACTOR, immediately terminate the right of  
19 CONTRACTOR to proceed under this Agreement if it is found that consideration, in any form,  
20 was offered or given by CONTRACTOR, either directly or through an intermediary, to any  
21 County officer, employee or agent with the intent of securing the Agreement or securing  
22 favorable treatment with respect to the award, amendment or extension of the Agreement or the  
23 making of any determinations with respect to the CONTRACTOR's performance pursuant to  
24 the Agreement. In the event of such termination, COUNTY shall be entitled to pursue the same  
25 remedies against CONTRACTOR as it could pursue in the event of default by the  
26 CONTRACTOR.

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4 **CONTRACTOR shall immediately report any attempt by a County officer or employee to solicit**  
5 **such improper consideration. The report shall be made either to the County manager charged**  
6 **with the supervision of the employee or to the COUNTY Auditor-Controller's Employee Fraud**  
7 **Hotline at (213) 974-0914 or (800) 544-6861.**

8 **Among other items, such improper consideration may take the form of cash, discounts, service,**  
9 **the provision of travel or entertainment, or tangible gifts.**

10 **6. CONSIDERATION OF GAIN PROGRAM PARTICIPANTS FOR EMPLOYMENT**

11 **Should CONTRACTOR require additional or replacement personnel after the effective date of**  
12 **the Agreement, Contractor shall give consideration for any such employment openings to**  
13 **participants in the COUNTY'S Department of Public Social Services' Greater Avenues for**  
14 **Independence (GAIN) Program who meet contractor's minimum qualifications for the open**  
15 **position. The COUNTY will refer GAIN participants by job category to the contractor.**

16 **7. INDEPENDENT CONTRACTOR STATUS**

17 **In the performance of this Agreement, CONTRACTOR shall be and remain an independent**  
18 **contractor. This Agreement is not intended, and shall not be construed, to create the**  
19 **relationship of agent, servant, employee, partnership, joint venture, or association, as between**  
20 **the COUNTY and CONTRACTOR.**

21 **8. EMPLOYEES OF CONTRACTOR**

22 **CONTRACTOR agrees that all persons furnishing services to COUNTY pursuant to this**  
23 **Agreement are, for purposes of Worker's Compensation liability, employees solely of**  
24 **CONTRACTOR and not of COUNTY.**

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4 **9. COMPLIANCE WITH ALL LAWS**

5 **CONTRACTOR agrees to comply with all applicable Federal, State and local laws, rules,**  
6 **regulations or ordinances, and all provisions required thereby to be included herein, are hereby**  
7 **incorporated by reference. CONTRACTOR agrees to indemnify and hold COUNTY harmless**  
8 **from any loss, damage or liability resulting from a violation on the part of the CONTRACTOR**  
9 **of such laws, rules, regulations or ordinances.**

10 **10. INDEMNIFICATION**

11 **CONTRACTOR hereby agrees to indemnify, defend and hold harmless COUNTY and its**  
12 **Special Districts, elected and appointed officers, employees, and agents (COUNTY) from and**  
13 **against any and all liability and expense, including defense costs and legal fees, arising from or**  
14 **connected with claims and lawsuits for damages or worker's compensation benefits relating to**  
15 **CONTRACTOR'S operations or its services, which result from bodily injury, death, personal**  
16 **injury, or property damage (including damage to CONTRACTOR's property). CONTRACTOR**  
17 **shall not be obligated to indemnify for liability and expense arising from the active negligence**  
18 **of the COUNTY.**

19 **11. INSURANCE**

20 **Without limiting CONTRACTOR'S indemnification of COUNTY and during the terms of this**  
21 **Agreement, CONTRACTOR shall provide and maintain at its own expense the following**  
22 **programs of insurance. Such programs and evidence of insurance shall be satisfactory to the**  
23 **COUNTY and primary to and not contributing with any other insurance maintained by the**  
24 **COUNTY. Certificate(s) or other evidence of coverage and certified copy(ies) of additional**

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insured endorsement(s), shall be delivered to Richard A. Russell, Chief Administrative Services, Department of Agricultural Commissioner/Weights and Measures, 12300 Lower Azusa Rd., Arcadia, CA 91006-5872, prior to commencing services under this Agreement, shall specifically identify this Agreement, and shall contain the express condition that COUNTY is to be given written notice by registered mail at least thirty (30) days in advance of any modification or termination of insurance.

Failure by CONTRACTOR to procure and maintain the required insurance shall constitute a material breach of contract upon which COUNTY may immediately terminate or suspend this Agreement.

A. Liability: Such insurance shall be endorsed naming the COUNTY of Los Angeles as an additional insured and shall include:

1. General Liability insurance written on a commercial general liability form or on a comprehensive general liability form covering the hazards of premises/operations, contractual, independent contractors, advertising, products/completed operations, broad form property damage, and personal injury with a combined single limit of not less than \$1,000,000 per occurrence.
  - a. If written with an annual aggregate limit, the policy limit should be three times the above required occurrence limit.
  - b. If written on a claims made form, the CONTRACTOR shall be required to provide an extended two year reporting period commencing upon termination or cancellation of this agreement.

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4           2.     Comprehensive Auto Liability endorsed for all owned, non-owned, and hired  
5                   vehicles with a combined single limit of not less than \$300,000 per occurrence.

6     B.     Worker's Compensation insurance in an amount and form to meet all applicable  
7           requirements of the Labor Code of the State of California, including Employer's  
8           Liability with a \$1,000,000 limit, covering all persons the CONTRACTOR is legally  
9           required to cover.

10    C.     Performance Surety: Such surety may be provided by one of the following forms and  
11           conditioned upon faithful performance and satisfactory completion of services by  
12           CONTRACTOR.

13           1.     A Certificate of Deposit or an Irrevocable Letter of Credit payable to the  
14                   COUNTY upon demand and in an amount not less than \$500 per contract, but  
15                   not to exceed \$1,000.

16    **12. TERMINATION FOR CONTRACTOR'S DEFAULT**

17           A.     COUNTY may, subject to the provisions outlined below, by written notice of default to  
18                   CONTRACTOR, terminate the whole or any part of this Agreement in any one of the  
19                   following circumstances:

20           1.     If CONTRACTOR fails to perform the service within the specified time or any  
21                   extension thereof: or

22           2.     If CONTRACTOR fails to perform any of the other provisions of this  
23                   Agreement, or so fails to make progress as to endanger performance of the  
24                   Agreement in accordance with its terms, and in either of these two circumstances  
25                   does not cure such failure within a period of ten (10) calendar days (or such

longer period as the COUNTY may authorize in writing) after receipt of notice from specifying such failure.

B. In the event COUNTY terminates this Agreement in whole or in part as provided in this section, COUNTY may procure, upon such terms and in such manner as COUNTY may deem appropriate, services similar to those terminated and CONTRACTOR shall be liable to COUNTY for any excess costs for such similar services.

13. **ADDITIONAL TERMINATION PROVISIONS**

A. In addition to the termination provisions set forth in paragraph 11, the COUNTY may terminate this Agreement in the event of the occurrence of any of the following:

1. **INSOLVENCY OF THE CONTRACTOR:** The CONTRACTOR shall be deemed to be insolvent if it has ceased to pay its debts in the ordinary course of business or cannot pay its debts as they become due, whether he has committed an act of bankruptcy or not, and whether insolvent within the meaning of the Federal Bankruptcy law or not;
2. The filing of a voluntary petition to have the CONTRACTOR declared bankrupt;
3. The appointment of a Receiver or Trustee for the CONTRACTOR;
4. The execution by the CONTRACTOR of an assignment for their benefit of creditors;
5. Failure of the CONTRACTOR to report bankruptcy proceedings to the COUNTY within 14 days.

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4       **B.       The rights and remedies of the COUNTY provided in this clause shall not be exclusive**  
5               **and are in addition to any other rights and remedies provided by law or under this**  
6               **Agreement.**

7   **14.   LIMITATION OF COUNTY'S OBLIGATION DUE TO NON-APPROPRIATION OF FUNDS**

8       Notwithstanding any other provision of this Agreement, COUNTY shall not be obligated for  
9       CONTRACTOR's performance hereunder or by any provision of this Agreement during any  
10      of COUNTY's future fiscal years unless and until COUNTY's Board of Supervisors appropriates  
11      funds applicable to this Agreement in COUNTY's budget for each such future fiscal year.

12      In the event that funds are not appropriated for such purpose, then this Agreement shall  
13      terminate as of June 30 of the last fiscal year for which funds were appropriated. COUNTY  
14      shall notify CONTRACTOR in writing of any such non-allocation of funds at the earliest  
15      possible date.

16   **15.   GOVERNING LAW/VENUE**

17      This Agreement shall be construed in accordance with any governed by the laws of the State of  
18      California Health and Safety Code, the Los Angeles Fire Code, California Government Code and  
19      various city codes and ordinances. Any action brought by either party on this Agreement shall  
20      be brought in the Los Angeles Municipal Court or Superior Court.

21   **16.   INCLUSION OF OTHER LAWS/CLAUSES**

22      CONTRACTOR agrees that each and every provisions of law and clause required to be inserted  
23      in the Agreement shall be deemed to be inserted herein and this Contract shall be read and be  
24      enforced as though it were included herein, and if through mistake or otherwise any such

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4 provision is not inserted or is not inserted correctly, then upon application of either party the  
5 Agreement shall forthwith be physically amended to make such insertion or correction.

6 **17. NONDISCRIMINATION IN EMPLOYMENT**

7 **A. By signature to this Agreement, CONTRACTOR certifies and agrees that all persons**  
8 **employed by such firm, its affiliate, subsidiaries, or holding companies are and will be**  
9 **treated equally by the firm without regard to or because of race, religion, ancestry,**  
10 **national origin, or sex and in compliance with all anti-discrimination laws of the United**  
11 **States of America and the State of California, CONTRACTOR further certifies and**  
12 **agrees that it will deal with its subcontractors, bidders or vendors without regard to or**  
13 **because its subcontractors, bidders or vendors without regard to or because of race,**  
14 **religion, ancestry, national origin or sex.**

15 **B. CONTRACTOR shall allow the COUNTY access to its employment records during the**  
16 **regular business hours to verify compliance with these provisions when so requested by**  
17 **the COUNTY.**

18 **C. If the COUNTY finds that any of the above provisions have been violated, the same**  
19 **shall constitute a material breach of contract upon which the COUNTY may determine**  
20 **to cancel, terminate, or suspend the contract in accordance with paragraph 11 herein.**

21 **D. The parties agree that in the event the CONTRACTOR violates the anti-discrimination**  
22 **provisions of the contract, the COUNTY shall, at its option, be entitled to a sum of ten**  
23 **(10) percent of the contract amount or one thousand dollars (\$1000), whichever is**  
24 **greater, as damages in lieu of canceling, terminating or suspending the contract**  
25 **pursuant to paragraph 11.**

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4 **18. ASSURANCE OF COMPLIANCE WITH CIVIL RIGHTS LAWS**

5 CONTRACTOR hereby assures that it will comply with Subchapter VI of the Civil Rights Act  
6 of 1964, 42 U.S.C. Sections 2000e through 2000e (17), to the end that no person shall, on grounds  
7 of race, color, sex or national origin, be excluded from participation in, be denied the benefits  
8 of, or be otherwise subject to discrimination under this Agreement or under any project,  
9 program, or activity supported by this Agreement.

10 **19. EMPLOYMENT ELIGIBILITY VERIFICATION**

11 CONTRACTOR warrants that it fully complies with all statutes and regulations regarding the  
12 employment eligibility of aliens and others, and that all persons performing services under this  
13 Agreement are eligible for employment in the United States. CONTRACTOR represents that  
14 it has secured and retained all required documentation verifying employment eligibility of its  
15 subject personnel. CONTRACTOR shall secure and retain verification of employment eligibility  
16 from any new personnel in accordance with the applicable provisions of law. CONTRACTOR  
17 shall indemnify, defend and hold COUNTY harmless from any employer sanctions or other  
18 liability which may be assessed against COUNTY or CONTRACTOR.

19 **20. "CONTRACTOR'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT**  
20 **COMPLIANCE PROGRAM"**

21 CONTRACTOR acknowledges that COUNTY has established a goal of ensuring that all  
22 individuals who benefit financially from COUNTY through contract are in compliance with their  
23 court-ordered child, family and spousal support obligations in order to mitigate the economic  
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burden otherwise imposed upon COUNTY and its taxpayers. As required by COUNTY'S Child Support Compliance Program (County Code Chapter 2.200) and without limiting CONTRACTOR'S duty under this contract to comply with all applicable provisions of law, CONTRACTOR warrants that it is now in compliance and shall during the term of this contract maintain compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 USC Section 653a) and California Unemployment Insurance Code Section 1088.5, and shall implement all lawfully served Wage and Earnings Withholding Orders or District Attorney Notices of Wage and Earnings Assignment for Child or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

**21. TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM**

Failure of CONTRACTOR to maintain compliance with the requirements set forth in Paragraph

**20. "CONTRACTOR'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM" shall constitute a default by CONTRACTOR under this contract.**

**Without limiting the rights and remedies available to COUNTY under any other provision of this contract, failure to cure such default within 90 days of notice by the Los Angeles County District Attorney shall be grounds upon which the County Board of Supervisors may terminate this contract pursuant to Paragraph 12. "TERMINATION FOR CONTRACTOR'S DEFAULT."**

**22. COUNTY'S QUALITY ASSURANCE PLAN**

**The County or its agent will evaluate Contractor's performance under this agreement on not less**

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4 than an annual basis. Such evaluation will include assessing Contractor's compliance with all  
5 contract terms and performance standards. Contractor deficiencies which County determines  
6 are severe or continuing and that may place performance of the agreement in jeopardy if not  
7 corrected will be reported to the Board of Supervisors. The report will include  
8 improvement/corrective action measures taken by the County and Contractor. If improvement  
9 does not occur consistent with the corrective action measures, County may terminate this  
10 agreement or impose other penalties as specified in this agreement.

11 **23. CONTRACT DOCUMENT INCORPORATED**

12 The Contract entered in by this Agreement consists of the following Contract documents, all of  
13 which are component parts of the Contract as if herein set out in full or attached hereto:

14 Information for Bidders  
15 Bidder's Required Documents  
16 General Specifications  
17 Bid Proposal  
18 Bid Award Letter

19 All of the above-named contract documents are intended to be complementary. Work required  
20 by one of the above-named contract documents and not by other shall be done as if required by  
21 all.

22 **24. MAXIMUM CONTRACT AMOUNT**

23 COUNTY'S maximum obligation under this Agreement is \$128,000 including all fees and  
24 expenses. (See Appendix A Attached.) Any services provided by CONTRACTOR or expenses  
25 incurred in connection with this Agreement which exceed this amount shall be a gratuitous effort  
26 by CONTRACTOR for which COUNTY shall have no liability. The Agricultural

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4	<b>Commissioner may increase the COUNTY'S maximum obligation under this Agreement by 10%</b>
5	<b>of the total contract amount, but not to exceed \$5,000, in the event additional services from the</b>
6	<b>CONTRACTOR are required.</b>
7	<b>Any other change effecting the scope of work, price or other terms and conditions under this</b>
8	<b>agreement must be approved by the County Board of Supervisors.</b>
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4 **IN WITNESS WHEREOF, the parties hereto have caused the Agreement to be executed by their**  
5 **fully authorized officers as of the dates set for below:**  
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7 **COUNTY OF LOS ANGELES**  
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9 By \_\_\_\_\_  
10 **Chair, Board of Supervisors**  
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14 **Attest: Violet Varona-Lukens,**  
15 **Executive Officer-Clerk of**  
16 **the Board of Supervisors**  
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21 By \_\_\_\_\_  
22 **Deputy**  
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**CONTRACTOR**

25 **APPROVED AS TO FORM**  
26 **BY COUNTY COUNSEL:**  
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\_\_\_\_\_  
**Company Name**

30 **LLOYD W. PELLMAN**  
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By \_\_\_\_\_

Date \_\_\_\_\_

Address \_\_\_\_\_

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36 By \_\_\_\_\_  
37 **Deputy**  
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**APPENDIX A**

**Cunningham Property Maintenance, Inc.  
WEED ABATEMENT TRACTOR CONTRACT  
(July 1, 2002 through June 30, 2003 and renewal period  
July 1, 2003 through June 30, 2004)**

<b><u>Contract Awarded</u></b>	<b><u>Units/Parcels</u></b>	<b><u>Unit Price</u></b>	<b><u>Total Amount</u></b>
<b>Zone 8, Hourly Discing</b>	<b>1000 Hrs.</b>	<b>\$128</b>	<b>\$128,000</b>
<b>Total Amount of Contract Awarded</b>			<b><u>\$128,000</u></b>

**AMENDMENT**

<b><u>Contract Awarded</u></b>	<b><u>Units/Parcels</u></b>	<b><u>Unit Price</u></b>	<b><u>Total Amount</u></b>
<b>Zone 8, Hourly Discing</b>	<b>500 Hrs.</b>	<b>\$128</b>	<b>\$ 64,000</b>
<b>Total Amount of Contract Awarded</b>			<b><u>\$ 64,000</u></b>

**First Year Renewal Extension Total**

<b><u>Contract Awarded</u></b>	<b><u>Units/Parcels</u></b>	<b><u>Unit Price</u></b>	<b><u>Total Amount</u></b>
<b>Zone 8, Hourly Discing</b>	<b>1500 Hrs.</b>	<b>\$128</b>	<b>\$192,000</b>
<b>Total Amount of Contract Awarded</b>			<b><u>\$192,000</u></b>